

CHARTER REVIEW COMMISSION

MINUTES

APRIL 1, 2010

MEETING #7 6:30 P.M.

KENDALL DEAN CONFERENCE ROOM

83 GREENE STREET

NORTH SMITHFIELD, RI 02896

MEMBERS:	JASON TINER (CHAIR)	<u> </u>	PRESENT	<u> X </u>	ABSENT
	KENNETH MURPHY (V. CHAIR)	<u> X </u>	PRESENT	<u> </u>	ABSENT
	JOHN WOJCIK (REC. SEC.)	<u> X </u>	PRESENT	<u> </u>	ABSENT
	MICHAEL CLIFFORD	<u> X </u>	PRESENT	<u> </u>	ABSENT
	FRANCESCA JOHANNIS	<u> X </u>	PRESENT	<u> </u>	ABSENT
	ALFRED PUCETTI	<u> X </u>	PRESENT	<u> </u>	ABSENT
	LINDA THIBAUT	<u> X </u>	PRESENT	<u> </u>	ABSENT

* AGENDA: REVIEW OF TOWN CHARTER ARTICLES: FOCUS REVISED
ARTICLE V TOWN ADMINISTRATOR/TOWN MANAGER AND ARTICLE VI TOWN
SOLICITOR

* MEETING CALL TO ORDER: BY K.MURPHY TIME: 6:45 P.M.

* APPROVAL OF MINUTES FROM MARCH 23, 2010: APPROVED
MOTION BY: L. THIBAUT SECONDED BY: A.PUCETTI

* MINUTES SUBMITTED BY RECORDING SECRETARY: J.WOJCIK

DISCUSSION:

THE MINUTES FROM MARCH 23RD WERE REFERENCED AND J.WOJCIK STATED THAT HE SENT AN E-MAIL TO ALL TOWN COUNCIL MEMBERS ON MARCH 25TH NOTIFYING THEM THAT THE CHARTER REVIEW COMMISSION NEEDED UNTIL APRIL 19TH TO PRESENT ITS RECOMMENDATIONS.

ALSO REFERENCING THE MARCH 23RD MINUTES, J.WOJCIK POINTED OUT THAT WHEN THE CHARTER REVIEW COMMISSION APPROVED M.CLIFFORD'S MOTION TO STRIKE THE PHRASE "...EXCLUDING THAT OF THE SCHOOL DEPARTMENT..." IN ARTICLE III, SECTION 2, SUBMISSION OF ESTIMATES, SUBSECTION (a), THE COMMISSION SHOULD ALSO HAVE VOTED TO DELETE SUBSECTION (b) SINCE THERE IS NO DIFFERENCE IN DEADLINE DATES TO SUBMIT ESTIMATES. IF SO, THEN THE DESIGNATION OF SUBSECTION (a) SHOULD ALSO BE DELETED.

MOTION BY M.CLIFFORD: DELETE PARAGRAPH (b) IN ARTICLE III, SECTION 2 AND ELIMINATE THE DESIGNATION (a) IN FRONT OF THE REMAINING PARAGRAPH. SECONDED BY: L.THIBAUT
MOTION APPROVED 5 - 1: K.MURPHY - YES; M.CLIFFORD - YES;
A.PUCETTI - YES; L.THIBAUT - YES; J.WOJCIK - YES; F.JOHNANIS - NO

M.CLIFFORD ALSO REFERENCED THE LAST MEETING AND ASKED WHAT HAPPENS WHEN DEPARTMENTS DO NOT MEET THE DATES POSTED IN THE CHARTER. A.PUCETTI MENTIONED THAT ONE DELAY (MISSED DEADLINE) MIGHT AFFECT THE BUDGET PROCESS. L.THIBAUT SAID THAT THIS ISSUE HAS NOT BEEN A CHRONIC YEARLY PROBLEM. M.CLIFFORD RESPONDED THAT ALL DEPARTMENTS SHOULD MEET CHARTER DATES. F.JOHNANIS SAID THAT SOMETIMES STATE LAW AND OTHER CONSIDERATIONS MIGHT AFFECT A DEPARTMENT'S ABILITY TO MEET A DEADLINE. A.PUCETTI AND L. THIBAUT SAID A BUDGET IS A WORKING DOCUMENT, AN ESTIMATE. DEPARTMENTS COULD ESTIMATE NOW AND ADJUST LATER IF NEED BE. F.JOHNANIS CITED THE SCHOOL DEPARTMENT BUDGET AND STATED THAT SOMETIMES ADJUSTMENTS HAVE TO BE MADE. ALSO MENTIONED WAS THE IDEA THAT EARLY BUDGET ESTIMATES MAY SEND THE WRONG MESSAGE SPECIFICALLY DURING CONTRACT NEGOTIATIONS. NO FURTHER ACTION WAS TAKEN ON THIS ISSUE.

WHEN THE IDEA OF A RECALL PROCEDURE OR RECALL PROVISION IN THE CHARTER WAS MENTIONED, IT WAS POINTED OUT THAT THERE WERE PROCEDURES FOR APPOINTED OFFICIALS BUT NONE FOR ELECTED OFFICIALS. A.PUCETTI SUGGESTED THAT THIS MIGHT BE AN IDEA THAT THE TOWN COUNCIL MIGHT EXPLORE IN THE FUTURE.

DISCUSSION TURNED TO ARTICLE V AND THE CHARTER SUBCOMMITTEE REPORT CONCERNING A TOWN MANAGER INSTEAD OF A TOWN ADMINISTRATOR. M.CLIFFORD, F.JOHNANIS, AND A.PUCETTI PRESENTED A THREE PAGE HANDOUT. MUCH DISCUSSION FOLLOWED BEGINNING WITH "SECTION 1 APPOINTMENT, QUALIFICATIONS, COMPENSATION." SUGGESTIONS WERE ADOPTED AND THE ENTIRE REPORT IS REPRODUCED FURTHER ON.

A.PUCETTI QUESTIONED "SECTION 5 POWERS AND DUTIES OF THE TOWN MANAGER" SUBSECTION (8) DEALING WITH "A COMPREHENSIVE ANNUAL REPORT." AFTER MUCH DISCUSSION THE COMMITTEE AGREED TO CHANGE THE WORDING. THE ENTIRE REPORT IS REPRODUCED FURTHER ON.

MEMBERS ALSO QUESTIONED SUBSECTION (11) WHICH DEALS WITH BEING "RECOGNIZED AS OFFICIAL HEAD OF THE TOWN GOVERNMENT FOR ALL

CEREMONIAL PURPOSES AND BY THE GOVERNOR FOR PURPOSE OF MILITARY LAW." BECAUSE THE TOWN ADMINISTRATOR WAS AN ELECTED OFFICIAL, THIS SECTION SEEMED VALID. HOWEVER, BECAUSE A TOWN MANAGER IS AN APPOINTED OFFICIAL, IT SEEMS THAT THE "OFFICIAL HEAD OF THE TOWN GOVERNMENT" SHOULD BE THE TOWN COUNCIL PRESIDENT. F.JOHANNIS SAID THAT ARTICLE IV TOWN COUNCIL NEEDS TO INCLUDE THE APPOINTING OF A TOWN MANAGER.

MOTION BY F.JOHANNIS TO ADD TO ARTICLE IV, SECTION 4, PRESIDING OFFICER A SECOND PARAGRAPH ENTITLED (b) STATING THAT "THE TOWN COUNCIL PRESIDENT SHALL BE RECOGNIZED AS OFFICIAL HEAD OF THE TOWN GOVERNMENT FOR ALL CEREMONIAL PURPOSES AND BY THE GOVERNOR FOR PURPOSE OF MILITARY LAW." IN ADDITION, THE FIRST PARAGRAPH SHOULD BE DESIGNATED (A). MOTION SECONDED BY A.PUC CETTI AND APPROVED UNANIMOUSLY.

MOTION BY F.JOHANNIS TO ACCEPT CHANGES TO ARTICLE V TOWN MANAGER OF THE SUBCOMMITTEE'S REPORT. MOTION SECONDED BY M.CLIFFORD. MOTION APPROVED 5 - 1. K.MURPHY - YES; M.CLIFFORD - YES; F.JOHANNIS - YES; A.PUC CETTI - YES; J.WOJCIK - YES; L.THIBAULT - NO.

THE FOLLOWING IS THE APPROVED SUBCOMMITTEE REPORT:

ARTICLE V TOWN MANAGER

SECTION 1. Appointment, Qualifications, Compensation.

The Town Council shall appoint by majority a Town Manager and fix his/her compensation. The Town Manager shall be chosen by the Town Council and shall have a minimum of a bachelor's degree in financing, business management, public administration, or in a related field from an accredited four-year college or university. Candidate must possess skills in public administration, budget preparation, accounting, project management, tax billing/collections, and computer skills. Knowledge of general assistance, public works, and grant writing is desirable, along with a minimum of three years municipal experience or its equivalent.

He/she need not be a resident of the town or state at the time of his/her appointment. The Town Council may, at its option, waive non-residency in case of hardship. The Town Manager appointed by the Town Council shall be given an

employment contract by the Town Council, with a term of three (3) years, subject to such conditions and clauses negotiated by the Town Council and the Manager. The contract shall stipulate that the Manager may be removed only for cause during the term of his/her contract.

SECTION 2. Prohibition Against Other Employment

The Manager shall devote his/her entire time and attention to his/her duties as Manager and shall not, during his/her appointment, be actively engaged in any employment, or business, or in the practice of any profession, or hold any public office other than the office of Town Manager of the Town of North Smithfield without prior Town Council approval.

SECTION 3. Acting Town Manager

By letter filed with the Town Clerk, the Manager shall designate, subject to approval of the Town Council, a qualified administrative officer to exercise the powers and perform the duties of Manager during his/her temporary absence or disability. During such absence or disability, the Town Council may revoke such designation at any time and appoint another officer of the town to serve until the Manager shall return or his/her disability shall cease. If for any reason the Manager failed to designate a qualified administrative officer and the need arose, the Town Council shall have the authority to make such appointment.

SECTION 4. Removal

The town Council may remove the Manager from office in accordance with the terms of his/her contract and with the following procedures:

- A. The Town Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered within twenty-four (24) hours to the Town Manager.
- B. Within five (5) days after a copy of the resolution is delivered to the Manager, he/she may file with the Town

Council a written request for a private or public hearing. This hearing shall be held at a Town Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Town Council a written reply not later than five (5) days before the hearing.

- C. The Town Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days, from the date when a copy of the preliminary resolution was delivered to the Manager, if he/she has not requested a public hearing, or at any time after the public hearing after he/she has requested one. The Manager shall continue to receive his/her salary until the effective date of a final resolution of removal.

SECTION 5. Powers and Duties of the Town Manager

The Town Manager shall be the chief administrative officer of the town. He/she shall be responsible to the Town Council for the administration of all town affairs placed in his/her charge by or under this charter. He/she shall have the following powers and duties:

- 1) Appoint and remove for cause any officer or employee of the town, except as otherwise provided by this charter, and except as he may authorize the head of a department or office to appoint and remove subordinates in such departments or office;
- 2) Notify the Town Council of all his/her appointments, which shall be in writing and filed with the Town Clerk within five (5) days of the appointments;
- 3) Supervise, control, and direct the activities and operations of all departments and administrative officers of the town within his/her jurisdiction and review all rules and regulations of the various departments and administrative officers and only upon his/her approval shall they become effective;
- 4) Enforce or cause to be enforced, the laws and ordinances of the town of North Smithfield;
- 5) See that the terms and conditions imposed in favor of the town in any contract or franchise are faithfully kept and

- performed and be responsible for the care and preservation of property and equipment of the town;
- 6) Negotiate contracts on behalf of the town with the approval of the Town Council;
 - 7) Prepare a budget annually, and submit it to the budget committee;
 - 8) Present to the Town Council a comprehensive annual review of the financial transactions and the administrative activities of the town within ninety (90) days after the close of each fiscal year, and prepare and make available for distribution to the public, within ninety (90) days after the end of each fiscal year, an annual report on town affairs, and keep the Town Council advised periodically of the financial conditions and needs of the town and make such recommendations as he/she may deem necessary;
 - 9) Recommend and introduce to the Town Council such measures as he/she may consider necessary and expedient for enactment;
 - 10) Have power and authority to declare a state of municipal emergency in the event of a disaster, catastrophe, or other similar event, or the imminent danger thereof, which endangers the health, safety or resources of the people of the town and to take such lawful action as he/she deems necessary to protect the health, safety, and security of the town and its people;
 - 11) Perform such other duties as may be required of him/her by ordinance or resolution of the Town Council.

AFTER APPROVING THE SUBCOMMITTEE REPORT ON THE TOWN MANAGER, A.PUCCETTI STATED THAT ALL REFERENCES TO A TOWN ADMINISTRATOR IN THE ENTIRE CHARTER WOULD HAVE TO BE CHANGED TO TOWN MANAGER.

DISCUSSION THEN FOCUSED ON ARTICLE VI TOWN SOLICITOR. F.JOHANNIS ASKED IF A FULL-TIME TOWN SOLICITOR WAS NEEDED. K.MURPHY ASKED WHAT ADVANTAGES WOULD A FULL-TIME SOLICITOR BRING TO THE TOWN. IN THE PAST, ADDITIONAL SOLICITORS WERE HIRED FOR SPECIFIC ISSUES. IT WAS NOTED THAT CURRENTLY THERE IS A SOLICITOR, AN ASSISTANT SOLICITOR, A SPECIAL SOLICITOR, AND A SCHOOL DEPARTMENT SOLICITOR IN THE BUDGET. THERE IS ALSO CONTINGENCY MONEY SET ASIDE FOR EMERGENCY LEGAL ACTION. F.JOHANNIS WONDERED IF A FULL-TIME SOLICITOR WOULD BRING A SENSE OF CONTINUITY TO TOWN ISSUES. IT WAS NOTED, HOWEVER, THAT LAWYERS HAVE BECOME SPECIALIZED IN DIFFERENT FIELDS SO

RECEIVING EXPERT QUALITY ADVICE MIGHT MEAN HIRING AN ADDITIONAL SOLICITOR. SALARY MIGHT ALSO BE AN ISSUE. AFTER MUCH DISCUSSION, MEMBERS TOOK NO ACTION ON RECOMMENDING A FULL-TIME SOLICITOR.

FURTHER DISCUSSION CENTERED AROUND QUALIFICATIONS OF SOLICITORS. MOTION BY J.WOJCIK TO ADD TO THE PRESENT WORDING IN ARTICLE VI TOWN SOLICITOR, SECTION 2, QUALIFICATIONS TO READ AS FOLLOWS: "THE TOWN SOLICITOR SHALL BE AN ATTORNEY-AT-LAW IN GOOD STANDING WHO HAS BEEN ADMITTED TO THE PRACTICE OF LAW IN THIS STATE AT LEAST THREE (3) YEARS PRIOR TO HIS APPOINTMENT, AND BE CERTIFIED TO PRACTICE LAW IN BOTH STATE AND FEDERAL COURT, WITH PREFERENCE GIVEN TO A QUALIFIED ELECTOR OF THE TOWN. HE SHALL NOT HOLD ANY OTHER OFFICE IN THE TOWN GOVERNMENT EXCEPT THAT OF ACTING JUDGE OF PROBATE WHEN SO NECESSARY. MOTION SECONDED BY M.CLIFFORD. DURING DISCUSSION AN ATTORNEY WAS CONSULTED BY PHONE AND ACCORDING TO HIM, DUAL CERTIFICATION IS NOT UNUSUAL. MOTION WAS APPROVED UNANIMOUSLY.

MOTION BY J.WOJCIK TO ADD A SENTENCE TO ARTICLE IV, SECTION 9, PROCEDURES, SUBSECTION (2), PASSAGES OF ORDINANCES. IN PARAGRAPH TWO, INSERT THE FOLLOWING SENTENCE BETWEEN THE FIRST AND SECOND SENTENCE: "... meeting for action. IF AT THE SECOND READING, THE TOWN COUNCIL MAKES ANY CHANGES, OTHER THAN EDITORIAL, TO THE PROPOSED ORDINANCE, THEN PUBLIC NOTIFICATION MUST BE PROVIDED LISTING THE CHANGES, AND THE PROPOSED ORDINANCE MUST AGAIN REVERT TO A FIRST READING. If, in the meantime..." MOTION SECONDED BY A.PUCCETTI. MOTION APPROVED UNANIMOUSLY.

DISCUSSION OF NEXT MEETING. APRIL 15TH WAS A TENTATIVE DATE, BUT F.JOANNIS WILL BE IN CONTACT WITH MEMBERS TO SETTLE ON A SPECIFIC DATE. FOCUS OF THE NEXT MEETING SHOULD BE A REVIEW OF THE PROPOSED RECOMMENDED REVISIONS.

MOTION TO ADJOURN: J.WOJCIK SECONDED BY: A.PUCCETTI
TIME: 9:35 P.M.